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EXAMINER

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2179

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/805,970

Filing Date: March 14, 2001

Appellant(s): MANETTA, AMY M.

Jack Schwartz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/19/06 appealing from the Office action mailed 04/19/06.

Art Unit: 2179

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,406,426 B1	Reuss et al.	06-2002
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2001/0030664 A1	Shulman et al.	10-2001
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a the office action, mailed 09/23/05.

Claim Rejections - 35 USC § 102

1. Claims 1 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuss et al. (U.S. Patent No. 6,406,426 B1).

As to claim 1, Reuss teaches an Internet compatible system for displaying medical information (Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, PCs, etc. e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32) comprising:

a communication network (the output parameters of the therapeutic device communicates with remote access devices such as PDAs, telephones, laptops, etc. over the wire/wireless communication network, e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 3-10) for acquiring ventilator parameters and settings associated with a patient on a substantially periodic basis and in response to a user command (information including ventilator parameters and settings of the patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43, and the data are periodically sent the remote devices, col. 14 line 64-col. 15 line 5);

a device for prioritizing received ventilator parameters and settings for display in a desired order and for allocating an attribute to distinguish changed ventilator parameters (the medical data are forwarded from the Message Server Task to the remote devices based on the

Art Unit: 2179

priority of a medical alert means that higher priority task will be announced/displayed and later to be solved in order based on its priority, e.g., col. 15 lines 4-8); and

a display generator for initiating generation of data representing a display of prioritized ventilator parameters and settings in the desired order and attributes for distinguishing changed ventilator parameters and settings (e.g., col. 3 lines 46-60, col. 7 lines 27-43, col. 15 lines 4-8).

As to claim 12, it is a method claim of system claim 1. Note the rejection of claim 1 above.

Claim Rejections - 35 USC § 103

2. Claims 2, 4-11, 13, and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al. (U.S. Patent No. 6,406,426 B1) in view of Shulman et al. (U.S. 2001/0030664 A1).

As to claim 2, Reuss teaches the system to send and received parameters and settings (attribute) as mentioned in claim 1 above; however, Reuss does not show wherein the attribute is a different color. Shulman clearly teaches that color of an icon indicates detailed status information of a network ([0052] of page 5). It would have been obvious at the time of the invention, a person with ordinary skill in the art would want to apply the Shulman's color status features in the system of Reuss to provide better visualization for user to determine status information for each element of a network.

As to claim 4, the modified Reuss teaches the system of claim 2 wherein the display generator generates data representing a window for displaying said ordered ventilator parameters and settings in a first window (information including ventilator parameters and settings of the

Art Unit: 2179

patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43).

As to claim 5, Reuss teaches the system of claim 4 wherein the display generator comprises an Internet browser (Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, PCs, etc. e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32).

As to claim 6, this can be rejected as a similar rationale as claim 2 above.

As to claims 7-8, Reuss teaches the system of claim 2 wherein the device, in response to the user command, acquires a new set of ventilator parameters and settings (after solving the problems remotely, the system will be updated with new data, or the data can be request from the caregivers, e.g., col. 15 lines 1-15, and col. 16 lines 45-65).

As to claim 9, Reuss teaches the system of claim 8 wherein the second user command comprising selection of a filtered list (remove the messages are no longer needed, col. 15 lines 1-15).

As to claim 10, Reuss teaches the system of claim 8 wherein the second user command comprises creation of a set of values for selected parameters and settings (information including ventilator parameters and settings of the patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43, and the data are periodically sent the remote devices, col. 14 line 64-col. 15 line 5).

Art Unit: 2179

As to claim 11, Reuss teaches the system of claim 4 wherein said menu generator comprises a user selection for selecting any one of the plurality of sources (e.g., col. 3 lines 46-60).

As to claims 13, and 15-22, they are method claims of system claims 2, and 4-11. Note the rejections of claims 2, and 4-11 above respectively.

(10) Response to Argument

A. The Reuss Reference:

Reuss clearly teaches the therapy status data from the therapeutic devices such as an intravenous infusions pump (IV Pump), ventilator support device (ventilator), hemodialysis machine, or patient warning/cooling system, can be regularly communicated to the patient monitor through a communications port which can be linked to a wireless communication segment, an RS-232 serial connection, or other hardwired or wireless network connection to the remote devices of the caregivers (col. 3 lines 46-60), and Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, and personal computers (PCs) can also be used, etc. (e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32). As mentioned above, the remote access medical monitoring devices of Reuss comprise handheld computers (Laptops), PDAs and PCs, which are well

know in the art as the time of the invention that those above devices contain Web Browsers (usually come with the OS), for example, Internet Explorer with Microsoft Windows. Moreover, Reuss also provides the remote access devices use IP (Internet Protocol) in communication (e.g., col. 15 lines 29-30). The user interface of Reuss (comprising the display and keypad) permits the caregiver to locally select patient monitoring conditions, including the selection of therapy delivery parameters, vital signs to be monitored; the adjustment of local display features including waveform selection, scaling, and sweep speed; and the transmission of command data to the central monitoring system 14 to initiate functions such as remote printing or to alert personnel associated therewith. In the event that a patient moves outside of the wireless communications range of any central station 14, this user interface permits the caregiver to operate the monitor locally like a conventional bedside monitor (col. 8 lines 13-29). The communications between the remote control devices and medical system are bi-directional communications, which allow for remote control of therapy delivery and physiological monitoring parameters from the external devices (Summary).

B. The Schulman Reference:

Shulman clearly teaches that color of an icon indicates detailed status information of a network ([0052] of page 5). The user receives notification, and the system is determined if an icon is to be displayed in response to the received notification. When the icon is to be displayed, the interactivity level or message severity is determined from the context of the received notification and preferences are

retrieved from at least one data record corresponding to interactivity level configuration settings (Abstract). It means the status icons that convey the status of various systems and components of the network. The different color of the icon indicates clear/normal (green), warning (yellow), or emergency (red) ([0052] of page 5).

C. Appellant's Arguments:

- i. *Reuss does not provide "a device for prioritizing received ventilator parameters and settings."*

The user interface of Reuss (comprising the display and keypad) permits the caregiver to locally select patient monitoring conditions, including the selection of therapy delivery parameters, vital signs to be monitored; the adjustment of local display features including waveform selection, scaling, and sweep speed; and the transmission of command data to the central monitoring system 14 to initiate functions such as remote printing or to alert personnel associated therewith. In the event that a patient moves outside of the wireless communications range of any central station 14, this user interface permits the caregiver to operate the monitor locally like a conventional bedside monitor (Reuss, col. 8 lines 13-29). The communications between the remote control devices and medical system are bi-directional communications, which allow for remote control of therapy delivery and physiological monitoring parameters from the external devices (Reuss, Summary). It clearly means that the system of

Reuss is not just a maintenance activity, and it can be remotely used in monitoring, controlling, and setting/adjusting the parameters of the therapeutic devices 12 (fig. 1) located at the patient side. The system of Reuss shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data. Each of the messages always carries the priority level of medical alert associated with it (Reuss, col. 15 lines 5-7); therefore, based on the above evidence, Reuss clearly shows all medical data from the patient are listed based on the priority of the medical alert associated with it (Reuss, col. 15 lines 5-15). The system will tell the caregivers the medical data having higher priority need to be reacted or set over the others.

ii. *Reuss does not show "prioritizing received ventilator parameters and settings for display in a desired order," "the user command acquires a new set of ventilator parameters and settings", "the device prioritizes the received ventilation unit parameters and settings for display in a desired order in response to a second command", or "filtered list."*

Reuss teaches information including ventilator parameters and settings of the patients can be forwarded to the caregivers over the network (Reuss, e.g., col. 3 lines 46-60, col. 7 lines 27-43), and the data are periodically sent the remote devices (Reuss, col. 14 line 64-col. 15 line 5). By monitoring a list of all messages sent in the system, the system also

performs the task of message memory maintenance for the remote access devices 42. Periodically, the Message Server Task 98 queries all known remote access devices 42 to determine if the message memory in some remote access device 42 is becoming full. If so, the Message Server Task 98 issues a command to the remote access device 42 to remove message(s) from its memory (filtered list). The selection of messages is based upon age of the message, whether it has been read, and the priority of a medical alert (if any) associated with it (Reuss, col. 15 lines 5-7). Furthermore, the Message Server Task 98 can delete data from the remote access device 42 which is no longer relevant, e.g., alerts which were responded to by other recipients and thus no longer need attention (Reuss, col. 15 lines 1-15); and by grouping a series of one or more commands, the system can remotely request/set parameters (Reuss, col. 16 line 45-col. 17 line 14). All of the (alert) messages are listed in the order of their priority levels, and Reuss clearly maintains the temporal ORDER of messages sent or removed from the system (Reuss, col. 16 lines 45-48). It clearly means that the system of Reuss shows prioritizing received ventilator parameters and settings for display in a desired order, the user command acquires a new set of ventilator parameters and settings, the device prioritizes the received ventilation unit parameters and settings for display in a desired order in response to a second command, or filtered list as claimed by the Appellant.

iii. *Reuss does not teach or suggest an Internet compatible system (Internet Browser) for displaying medical information derived from a plurality of sources.*

Reuss clearly teaches the therapy status data from the therapeutic devices such as an intravenous infusions pump (IV Pump), ventilator support device (ventilator), hemodialysis machine, or patient warning/cooling system, can be regularly communicated to the patient monitor through a communications port which can be linked to a wireless communication segment, an RS-232 serial connection, or other hardwired or wireless network connection to the remote devices of the caregivers (Reuss, col. 3 lines 46-60), and Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, and personal computers (PCs) can also be used, etc. (Reuss, e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32). As mentioned above, the remote access medical monitoring devices of Reuss comprise handheld computers (Laptops), PDAs and PCs, which are well know in the art as the time of the invention that those above devices contain Web Browsers (usually come with the OS), for example, Internet Explorer with Microsoft Windows. Moreover, Reuss also provides the remote access devices use IP (Internet Protocol) in communication (Reuss, e.g., col. 15 lines 29-30).

iv. *There is no suggestion or motivation to combine Reuss and Shulman.*

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Reuss teaches the system to send/set and received parameters and settings (attribute) as mentioned, and the caregivers with the remote device can control/set/change the ventilator parameters like the conventional bedside monitor (see the (i) section above); however, the only one limitation that Reuss does not teach is the attribute in different colors. Shulman clearly teaches that color of an icon indicates detailed status information of a network (Shulman, [0052] of page 5). The user receives notification, and the system is determined if an icon is to be displayed in response to the received notification. When the icon is to be displayed, the interactivity level or message severity is determined from the context of the received notification and preferences are retrieved from at least one data record corresponding to interactivity level configuration settings (Shulman, Abstract). It means the status icons that convey the status of various

Art Unit: 2179

systems and components of the network. The different color of the icon indicates clear/normal (green), warning (yellow), or emergency (red) (Shulman, [0052] of page 5). It would have been obvious to a person of ordinary skill in the art at the time of the invention to apply the Shulman's color status features in the system of Reuss to provide better visualization for the user to determine status information of each displayed element, data, network, message, icon, or system, etc.

All other arguments are similar in scope, or they can be covered/explained under a similar rationale as i-iv above.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Truc T. Chuong
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Feb. 03, 2007



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